

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064

TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)UNIT 5201, FORTUNE FINANCIAL CENTER
5 DONGSANHUAN ZHONGLU
CHAOYANG DISTRICT, BEIJING 100020, CHINA
TELEPHONE (86-10) 5828-6300SUITES 3601 - 3606 & 3610
36/F, GLOUCESTER TOWER
THE LANDMARK
15 QUEEN'S ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

WRITER'S DIRECT DIAL NUMBER

(212) 373-3118

WRITER'S DIRECT FACSIMILE

(212) 492-0118

WRITER'S DIRECT E-MAIL ADDRESS

lelynch@paulweiss.com

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, UNITED KINGDOM
TELEPHONE (44 20) 7367 1600FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-05202001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410MATTHEW W. ABBOTT
EDWARD T. ACKERMAN
JACOB A. ADLERSTEIN
JUSTIN ANDERSON
ALLAN J. ARFA
JONATHAN H. ASHTOR
ROBERT A. ATKINS
DAVID J. BAILL
SCOTT A. BASHAY
PAUL M. BASTA
J. STEVEN BAUGHMAN
LYNN B. BAYARD
CRAIG A. BENSON
MARK S. BERGMAN
DAVID M. BERNICK
JOSEPH J. BIAL
BRUCE BIRNBOIM
H. CHRISTOPHER BOEHNING
ANGELO BONVINO
ROBERT BRITTON
DAVID W. BROWN
SUSANNA M. BUERGER
JESSICA S. CAREY
DAVID CARMONA
GEOFFREY R. CHEPIGA
ELLEN N. CHING
WILLIAM A. CLAREMAN
LEWIS R. CLAYTON
YAKHONNES CLARY
RACHAEL G. COFFEY
JAY COHEN
KELLEY A. CORNISH
CHRISTOPHER J. CUMMINGS
THOMAS V. DE LA BASTIDE III
MEREDITH DEARBORN*
ARIEL J. DECKELBAUM
KAREN L. DUINN
ALICE BELISLE EATON
ANDREW J. EHRLICH
GREGORY A. EZRING
ROSS A. FIELDSTON
ANDREW C. FINCH
BRAD J. FINKELSTEIN
BRIAN P. FINNEGAN
ROBERTO FINZI
PETER E. FISCH
HARRIS FISCHMAN
ANDREW J. FOLEY
ANDREW J. FORMAN*
HARRIS B. FREIDUS
CHRISTOPHER D. FREY
MANUEL S. FREY
ANDREW L. GAINES
KENNETH A. GALLO
MICHAEL E. GERTZMAN
ADAM M. GIVERTZ
SALVATORE GOGLIORMELLA
NEIL GOLDMAN
MATTHEW B. GOLDSTEIN
ROBERTO J. GONZALEZ*
CATHERINE L. GOODALL
ERIC GOODISON
CHARLES H. GOOGE, JR.
ANDREW G. GORDON
BRIAN S. GRIEVE
JUDI GROMAN
NICHOLAS GROOMBRIDGE
BRUCE A. GUTENPLAN
ALAN S. HALPERIN
CLAUDIA HAMMERMAN
BRIAN S. HERMANN
MICHELE HIRSHMAN
ROBERT E. HOLO
DAVID S. HUNTINGTON
AMRAN HUSSEIN
LORETTA A. IPPOLITO
WILLIAM A. ISAACSON*
JAREN JANGHORBANI
BRIAN M. JANSON
JEH C. JOHNSON
MEREDITH J. KANE
BRAD S. KARP
PATRICK N. KARSNITZ
JOHN C. KENNEDYBRIAN KIM
KYLE J. KIMPLER
ALEXIA D. KORBERG
ALAN W. KORNBERG
DANIEL J. KRAMER
CAITH KUSHNER
DAVID K. LAKHDHIR
JOHN E. LANGE
GREGORY F. LAUFER
BRIAN C. LAVIN
XIAOYU GREG LIU
LORETTA E. LYNCH
JEFFREY D. MARELL
MARCO V. MASOTTI
DAVID W. MAYO
ELIZABETH R. MCCOLM
JEAN M. MCLOUGHLIN
ALVARO MEMBRILLERA
MARK F. MENDELSON
CLAUDINE MEREDITH-GOUJON
WILLIAM B. MICHAEL
JUDIE NG SHORTELL*
CATHERINE NYARADY
JANE B. O'BRIEN
ALEX YOUNG K. OH
BRAD R. OKUN
KELLEY D. PARKER
LINDSAY B. PARKS
ANDREW M. PARLEN
CHARLES J. PESANT
JESSICA E. PHILLIPS*
VALERIE E. RADWANER
ANDREW J. RECHER
CARL L. REISNER
LORIN L. REISNER
JEANNIE S. RHEE*
WALTER S. RICCIARDI
WALTER RIEMAN
RICHARD A. ROSEN
ANDREW N. ROSENBERG
JUSTIN ROSENBERG
JACQUELINE F. RUBIN
CHARLES F. "RICK" RULE*
RAPHAEL M. RUSSO
ELIZABETH M. SACKSTEDER
JEFFREY D. SAFERSTEIN
JEFFREY B. SAMUELS
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JOHN M. SCOTT
BRIAN SCRIVANI
KYLE T. SEIFRIED
KANNON K. SHANMUGAM*
AUDRA J. SOLOWAY
SCOTT M. SONTAG
SARAH STASNY
TARUN M. STEWART
ERIC ALAN STONE
AIDAN SYNNOTT
BRETTE TANNENBAUM
RICHARD C. TARLOWE
MONICA K. THURMOND
DANIEL J. TOAL
LAURA C. TURANO
CONRAD VAN LOGGERENBERG
LIZA M. VELAZQUEZ
MICHAEL VOGEL
RAMY J. WAHBEH
LAWRENCE G. WEE
THEODORE V. WELLS, JR.
LINDSEY L. WIERSMA
STEVEN J. WILLIAMS
LAWRENCE I. WITDORCHIC
AUSTIN WITT
MARK B. WLAZLO
JULIA TARVER MASON WOOD
JENNIFER H. WU
BETTY YAP
JORDAN E. YARETT
KAYE N. YOSHINO
TONG YU
TRACEY A. ZACCONE
TAURIE M. ZEITZER
T. ROBERT ZOCHOWSKI, JR.*NOT ADMITTED TO THE NEW YORK BAR
*ADMITTED TO THE CALIFORNIA BAR

February 4, 2021

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference data from the parties. I continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their

counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the parties, MCC scheduled 186 calls between January 28 and February 3, 2021. 159 calls were completed, two were attempted but not completed, one was rescheduled or cancelled, and 24 were not completed for unknown reasons. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some privacy, technical, and scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 316 calls between January 28 and February 3, 2021. 257 calls were completed, three were attempted but not completed, one was rescheduled or cancelled by the requesting attorney, nine were not completed for unknown reasons, and 46 were not completed due to this week’s snowstorm. We are working with the parties to gather more information about these calls. Federal Defenders report that three call requests were pending for more than 48 hours. Additionally, Federal Defenders report some other technical and scheduling issues this week in addition to those cause by this week’s snowstorm.

Effective this report we will be reporting urgent call requests provided by the institutions. At the MDC there were four urgent call requests between January 22 and February 1, 2021. Two of the urgent calls were facilitated and scheduled on the day the requests were received. The other two urgent call requests did not result in a call and the

¹ I held a joint mediation call with the parties on February 2, 2021.

attorneys were instead provided medical information on their clients. **Videoconferencing**
MCC

According to the information received from the parties, MCC scheduled 40 videoconferences between January 28 and February 3, 2021. All 40 were completed as scheduled. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 53 videoconferences between January 28 and February 3, 2021. 33 were completed as scheduled, one was attempted but not completed, two were rescheduled or cancelled by the requesting attorney, three were not completed for unknown reasons, and 14 were not completed due to this week's snowstorm. We are working with the parties to gather more information about these VTCs. Federal Defenders report that 37 VTC requests were pending for more than 48 hours. Additionally, Federal Defenders report some other technical and scheduling issues this week in addition to those caused by this week's snowstorm.

IV. In Person Visiting

The MDC remains closed to in person visiting, although the parties are discussing within the mediation process a timetable for re-opening. The MDC continues to work on installing additional telephone lines on the units. Those currently installed have been useful in alleviating call backlogs on those units. The parties are also beginning discussions on ways to expand videoconferencing access. I will continue to work with the parties in these efforts.

Remote access at the MDC was curtailed this past Monday and Tuesday due to the recent snowstorm. This has increased the call backlog significantly and the institution is working with the affected counsel to clear it.

An additional HVAC test is scheduled to be completed at both institutions on February 11. The MCC is currently led by an interim Warden due to the recent retirement of Warden Licon-Vitale. I will be speaking with the interim Warden next week to update him on the access issues we are working on in mediation.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
Seth D. Eichenholtz, U.S. Attorney's Office (E.D.N.Y.)
Sean Greene, U.S. Attorney's Office (E.D.N.Y.)
Matthew J. Modafferi, U.S. Attorney's Office (E.D.N.Y.)
Jeffrey Oestericher, U.S. Attorney's Office (S.D.N.Y.)
David Jones, U.S. Attorney's Office (S.D.N.Y.)